

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Harrisonburg Division

JAMES MONTGOMERY,

Plaintiff,

Civil Action No. 5:20-cv-00077

v.

Circuit Court for the City of Winchester, Virginia
Case No. CL20-616

ASHWORTH BROS., INC.,

Defendant.

NOTICE OF REMOVAL

Defendant Ashworth Bros., Inc. (“Ashworth”), by counsel and pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, files this Notice of Removal on the following grounds:

1. Plaintiff James Montgomery (“Montgomery”) filed a Complaint against Ashworth in the Circuit Court for the City of Winchester, Virginia, on October 19, 2020. A copy of the Complaint is attached hereto as **Exhibit A**.
2. In the Complaint, Montgomery alleges certain violations of the Family and Medical Leave Act of 1993, 29 U.S.C. § 2601, *et seq.* (“FMLA”), the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101, *et seq.* (“ADA”), and Virginia Code § 40.1-51.2:1, *et seq.* (*see* Complaint at ¶ 1).
3. Montgomery’s FMLA and ADA claims arise under federal law. This Court has original jurisdiction over Montgomery’s FMLA and ADA claims pursuant to 28 U.S.C. § 1331, 29 U.S.C. § 2617(a)(2), 42 U.S.C. § 12117(a), and 42 U.S.C. § 2000e-5(f)(3).

4. Montgomery's state law claim is so related to his federal claims that they form part of the same case or controversy (*see, e.g.*, Complaint at ¶¶ 2, 3). Therefore, this Court has supplemental jurisdiction over Montgomery's state law claim pursuant to 28 U.S.C. § 1337(a).

5. Ashworth received a copy of Montgomery's Complaint on October 22, 2020. No other pleading has been filed.

6. Under 28 U.S.C. § 1446(b), Ashworth has filed this Notice of Removal within 30 days after receipt of the copy of Montgomery's Complaint.

WHEREFORE, Ashworth Bros., Inc. requests that this action be removed from the Circuit Court for the City of Winchester, Virginia to the United States District Court for the Western District of Virginia, Harrisonburg Division.

Respectfully submitted this 5th day of November, 2020.

ASHWORTH BROS., INC.
By Counsel

/s/ Andrew S. Baugher
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Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on November 5, 2020, I electronically filed the foregoing Notice of Removal with the Clerk of Court using the CM/ECF system and sent a true copy by mail and e-mail to:

Timothy E. Cupp, Esq.
Shelley Cupp Schulte, P.C.
P.O. Box 589
Harrisonburg, VA 22803-0589
cupp@scs-work.com
Counsel for Plaintiff

I further certify that a true copy of the foregoing Notice of Removal was sent by mail for filing with the Clerk's Office of the Circuit Court for the City of Winchester, Virginia, on November 5, 2020.

/s/ Andrew S. Baugher
Counsel for Defendant

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